

ENROLLED HOUSE
BILL NO. 1706

By: Johnson (Rob) and
Widener of the House

and

Mickle of the Senate

An Act relating to torts; amending 76 O.S. 1991, Section 19, which relates to access to medical records; increasing the maximum amount allowed to be charged for the cost or expense of copying such records; prohibiting the charging of a fee for a search of such records; clarifying certain cite; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 76 O.S. 1991, Section 19, is amended to read as follows:

Section 19. A. Any person who is or has been a patient of a doctor, hospital or other medical institution shall be entitled to obtain access to the information contained in all his medical records upon request, and shall be furnished copies of all records pertaining to his or her case upon request and upon the tender of the expense of such copy or copies. Cost of each copy shall not exceed ten cents (\$0.10) twenty-five cents (\$0.25) per page. The physician, hospital or other medical professionals and institutions may not charge a fee for searching, retrieving, reviewing and preparing medical records of the person in order to determine which medical records are to be copied. Provided that this entitlement to medical records shall not apply to psychological or psychiatric records. In the case of psychological or psychiatric records, the patient shall not be entitled to copies unless access to said records is consented to by the treating physician or practitioner or is ordered by a court of competent jurisdiction upon a finding that it is in the best interest of the patient, but the patient may be provided access to information contained in said records, as provided in subsection B of Section ~~3~~ 1-109 of ~~this act~~ Title 43A of the Oklahoma Statutes. The patient or, if the patient is a minor child or a guardian has been appointed for the patient, the guardian of the patient may authorize the release of the psychiatric or psychological records of the patient to a third party payor or governmental entity. The execution of such authorization shall not be construed to authorize the patient personal access to said records or information.

B. In cases involving a claim for personal injury or death against any practitioner of the healing arts or a licensed hospital, arising out of patient care, where any person has placed his physical or mental condition in issue by the commencement of any action, proceeding or suit for damages, or where any person has placed in issue the physical or mental condition of any other person or deceased person by or through whom such person rightfully claims, he shall be deemed to waive any privilege granted by law concerning

any communication made to a physician or health care provider with reference to any physical or mental condition or any knowledge obtained by such physician or health care provider by personal examination of any such patient; provided that, before any such communication, medical or hospital record or testimony is admitted in evidence in any proceeding it must be material and relevant to an issue therein, according to existing rules of evidence.

Any person who obtains any document pursuant to the provisions of this section shall provide copies of said document to any opposing party in said proceeding upon payment of the expense of copying said document, not to exceed ~~ten cents (\$0.10)~~ twenty-five cents (\$0.25) for each page copied.

SECTION 2. This act shall become effective September 1, 1994.

Passed the House of Representatives the 15th day of March, 1994.

Speaker of the House of
Representatives

Passed the Senate the 14th day of April, 1994.

President of the Senate